

REMARKS

This Application has been carefully reviewed in light of the Advisory Action mailed November 7, 2005. In order to advance prosecution of this Application, Claims 1, 5, 9, 13, 17, 21, 25, 29, 33, and 37 have been amended. Applicant respectfully requests reconsideration and favorable action in this Application.

The Examiner issued a Final Action on August 15, 2005. Applicant submitted a Response to Examiner's Final Action on October 17, 2005. The Examiner issued an Advisory Action on November 7, 2005 stating that the Response to Examiner's Final Action did not place the application in condition for allowance. Applicant respectfully requests continued examination of this Application so that amendments to the claims can be considered by the Examiner pursuant to this Request for Continued Examination.

Claims 1-3, 5, 9-11, 13, 17-19, 21, 25-27, 29, 33-35, and 37 stand rejected under 35 U.S.C. §102(e) as being anticipated by Kondo, et al. Independent Claims 1, 9, 17, 25, and 33 recite in general the ability to use the first and second signal characteristics to selectively perform either of the steps of selecting one of the first and third signal portions and combining the first and third signal portions, wherein combining includes adding or averaging the first and third signal portions. By contrast, the Kondo, et al. patent merely discloses alternating selection of data from one of a plurality of base stations in order to generate a combination signal having no errors. The portions of the Kondo, et al. patent cited by the Examiner are only directed to selecting one of two signals based on either no error or highest reception level if both signals have errors. Thus, the Kondo, et al. patent does not have a capability to add or average

signal portions from different base stations let alone selectively perform either of the steps of selecting between signal portions or combining signal portions as provided by the claimed invention. Therefore, Applicant respectfully submits that Claims 1-3, 5, 9-11, 13, 17-19, 21, 25-27, 29, 33-35, and 37 are not anticipated by the Kondo, et al. patent.

Claims 4, 12, 20, 28, and 36 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kondo, et al. in view of Kanerva, et al. Independent Claim 1, from which Claim 4 depends; Independent Claim 9, from which Claim 12 depends; Independent Claim 17, from which Claim 20 depends; Independent Claim 25, from which Claim 28 depends; and Independent Claim 33, from which Claim 36 depends, have been shown above to be patentably distinct from the Kondo, et al. patent. Moreover, the Kanerva, et al. patent does not include any additional disclosure combinable with the Kondo, et al. patent that would be material to patentability of these claims. In addition, the Kanerva, et al. patent discloses the averaging over time of signal level measurements to determine whether to perform a handover, which is hardly the same as combining two signal portions through addition or averaging to generate an output as provided in the claimed invention. Therefore, Applicant respectfully submits that Claims 4, 12, 20, 28, and 36 are patentably distinct from the proposed Kondo, et al. - Kanerva, et al. combination.

Claims 6-8, 14-16, 22-24, 30-32, and 38-40 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kondo, et al. in view of Wang, et al. Independent Claim 1, from which Claims 6-8 depend; Independent Claim 9, from which Claims 14-16 depend; Independent Claim 17, from which Claims 22-24 depend; Independent Claim 25, from which Claims 30-32 depend; and Independent Claim 33, from which Claims 38-40 depend, have

been shown above to be patentably distinct from the Kondo, et al. patent. Moreover, the Wang, et al. patent does not include any additional disclosure combinable with the Kondo, et al. patent that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 6-8, 14-16, 22-24, 30-32, and 38-40 are patentably distinct from the proposed Kondo, et al. - Wang, et al. combination.

Attached herewith is a check in an amount of \$790.00 made payable to the "Commissioner of Patents and Trademarks" to satisfy the request for continued examination fee of 37 C.F.R. §1.17(e).

CONCLUSION

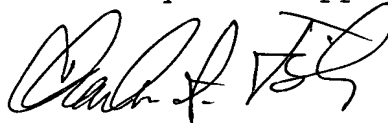
Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other apparent reasons, Applicants respectfully request full allowance of all pending claims.

The Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

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November 15, 2005

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